STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

v **File No. 120584-001SF**

Blue Cross Blue Shield of Michigan

Respondent

Issued and entered
this 31ST day of October 2011
by R. Kevin Clinton
Commissioner

ORDER

I. PROCEDURAL BACKGROUND

On April 13, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq.*

The Commissioner immediately notified Blue Cross Blue Shield of Michigan (BCBSM) of the request for external review and asked for the information it used to make its final adverse determination. On April 20, 2011, after a preliminary review of the material submitted, the Commissioner accepted the request.

The Petitioner is enrolled for health care benefits through the XXXXX, a local unit of government self-funded health plan under Act 495. The plan is administered by BCBSM. According to BCBSM, the Petitioner's health care benefits are defined in the *Blue Choice Preferred Provider Organization Managed Health Care Group Benefits Certificate* (the certificate).[1]

---

1 Form number 3920, approved 05/08.

Section 2(2) of Act 495, MCL 550.1952(2), authorizes the Commissioner to conduct this external review as though the Petitioner were a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*.

The issue in this external review can be decided by a contractual analysis. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II. FACTUAL BACKGROUND

On October 23, 2010, the Petitioner was treated at XXXXX Urgent Care, a facility affiliated with XXXXX Hospital. BCBSM covered the treatment as an office visit and paid the professional charge but declined to cover an additional facility charge from XXXXX Hospital. Both XXXXX Urgent Care and XXXXX Hospital participate with BCBSM.

The Petitioner appealed BCBSM's denial through its internal grievance process. BCBSM held a managerial level conference on February 9, 2011, and affirmed its denial in a final adverse determination dated March 7, 2011.

III. ISSUE

Is BCBSM required to cover the hospital facility charge associated with the Petitioner's urgent care visit?

IV. ANALYSIS

Petitioner's Argument

The Petitioner states she sought treatment at XXXXX Urgent Care for an upper respiratory infection. She indicates that she and her husband have used the urgent care center in the past and the visits were always covered. She does not understand why the hospital is submitting a claim when she was treated at an urgent care center, not in the hospital emergency room.

Respondent's Argument

In its final adverse determination of March 7, 2011, BCBSM stated it denied coverage for the facility charge billed by XXXXX Hospital because the Petitioner "did not meet the necessary criteria for a payable medical emergency. . . ." BCBSM went on to explain when hospital facility charges **are** payable. The certificate, in Section 4, "Outpatient Hospital Services That Are Payable" (p. 4.25) states:

> Facility services are payable for the initial examination to treat a medical emergency or accidental injury in the outpatient department of a hospital, urgent care center, or physician's office. Follow-up care is not considered emergency treatment.

The term "medical emergency" is defined on p. 10.14 of the certificate as:

> A condition that occurs suddenly and unexpectedly. This condition could result in serious bodily harm or threaten life unless treated immediately. This is not a condition caused by an accidental injury.[2]

BCBSM argues the Petitioner did not have a medical emergency when she went to XXXXX Urgent Care and therefore the outpatient hospital facility charge was not payable.

Commissioner's Review

Under the terms of the certificate on p. 7.17, BCBSM covers urgent care as an outpatient office visit:

> We pay for office visits (including office consultations) and outpatient and home medical care visits by a physician. The services must be to examine, diagnose, and treat any condition of disease, pregnancy or injury.
>
> Services include:
>
> - First aid and medical emergency services
> - Urgent care visits
> - Allergy Testing
> - Outpatient and office consultations
> - Follow-up chemotherapy visits
> - Immunizations and therapeutic injections (including allergy therapy)

According to the Petitioner's explanation of benefits statement dated November 20, 2010, BCBSM covered her urgent care visit on October 23, 2010, as an office visit and made its payment to XXXXX Urgent Care. However, BCBSM declined to pay the facility charge because the urgent care visit was not needed to treat a medical emergency. Under the certificate, BCBSM covers the facility charge for outpatient hospital services and urgent care only if the treatment is needed because of a medical emergency or accidental injury.

2 "Accidental injury" is defined on p. 10.1 of the certificate as "Any physical damage caused by an action, object or substance outside the body. …"

In this case, the Petitioner has not argued or shown that the visit was for either a medical emergency or an accidental injury. In her request for an external review, she stated she went to the urgent care center "on a Saturday with an upper respiratory [*sic*] hoping to get a head start on getting better so I could go to work on Monday." Since there was no medical emergency or accidental injury, the Commissioner concludes that BCBSM correctly processed the Petitioner's claim for her urgent care visit as an office visit.

Apparently XXXXX Urgent Care qualifies as a level 2 hospital type B hospital emergency department. Therefore, it was not inappropriate for it to bill its facility charge under procedure code G0381, "level 2 hospital emergency department visit provided in a type B emergency department." But regardless of the status of XXXXX Urgent Care, whether it is attached or unattached to XXXXX Hospital, the certificate only covers outpatient facility charges when a visit to an urgent care center or an emergency room arises from a medical emergency or accidental injury, which is not the case here.

V. ORDER

The Commissioner upholds Blue Cross Blue Shield of Michigan's final adverse determination of March 7, 2011. BCBSM is not required to cover the facility charge for the Petitioner's urgent care visit on October 23, 2010.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.